

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

UNITED STATES

v.

ANTHONY SPRUILL

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CRIMINAL ACTION

NO. 05-CR-532

SURRICK, J.

MAY 12, 2006

MEMORANDUM & ORDER

Presently before the Court is Defendant's Motion To Suppress (Doc. No. 27). For the following reasons, the Motion will be denied.

I. BACKGROUND

A hearing on Defendant's Motion to Suppress was held on May 9, 2006. Two witnesses testified at the hearing, Special Agent Edward J. Gallant III of the Federal Bureau of Investigation and Defendant Anthony Spruill. We found the testimony offered by Special Agent Gallant to be credible. The testimony offered by Defendant was not.

On May 10, 2005, Special Agent Gallant and Detective Sean Brennan of the Philadelphia Police Department arrested Defendant Anthony Spruill at 31st and Norris Streets in Philadelphia, Pennsylvania. (May 9, 2006 Hrg. Tr. at 15-16, 85.) There were two outstanding state warrants for Defendant's arrest. One of the warrants was for a parole violation and the other was for a new charge of aggravated assault. (*Id.* at 16.) Gallant and Brennan drove Defendant to the Philadelphia Police Station at 55th and Pine Streets. This was the police station that had generated the aggravated assault charge. (*Id.* at 16-17.) During the trip to the police station Gallant did not advise Defendant of his Miranda warnings, and he did not attempt to interrogate

Defendant. (*Id.* at 17.) Instead, Gallant advised Defendant to be quiet and to listen to Gallant. (*Id.* at 17-18.) Gallant then informed Defendant that he was under investigation for federal drug trafficking charges and that the FBI had arrested several individuals who had received Defendant's drugs. Gallant advised Defendant that he would be indicted on federal charges sooner or later and that Defendant should consider cooperating with the FBI. (*Id.*) Although Gallant warned Defendant not to say anything, Defendant responded that it did not matter because Defendant was dying. Gallant asked Defendant what he was dying of, and Defendant explained that he had hepatitis. (*Id.* at 18, 88.) Gallant then told Defendant that he should consider cooperating anyway in order to "get right with [his] God." (*Id.* at 18.) Later that day, Defendant was transferred from the police station to Curran-Fromhold Correctional Facility (CFCF).

The next day, May 11, 2005, Gallant received a telephone call from Defendant, asking Gallant to meet with Defendant at CFCF.¹ (*Id.* at 19; Gov't Ex. 5.) On May 12, 2005, Gallant and Brennan went to CFCF to meet with Defendant. (*Id.* at 19-20.) Before interviewing Defendant, Gallant advised Defendant of his rights by reading the Advice of Rights Form to Defendant. He then gave Defendant the Form, and Defendant read it. (Hrg. Tr. at 20, 97-98, 104-05; Gov't Ex. 3.) Defendant indicated to Gallant that he understood the Form's contents. (Hrg. Tr. at 21, 81-82.) Defendant and Gallant then both signed the Form. After the Advice of Rights Form was signed, Gallant interviewed Defendant regarding matters related to Defendant's drug trafficking. Gallant discussed with Defendant the potential benefits of cooperating but did not

¹ Defendant agrees that he did in fact want to talk to Gallant but indicates that he did not directly call Gallant. Rather, he directed his wife to contact Gallant to request the meeting. (Hrg. Tr. at 90-91.)

discuss the pending state charges specifically. (*Id.* at 20.) Gallant did not make any promises to Defendant, nor did he threaten or coerce Defendant. (*Id.* at 22-23.) Defendant answered Gallant's questions and offered information to Gallant voluntarily. Gallant memorialized the May 12th interview in a Form 302. (Gov't Ex. 4.)

Sometime between May 12 and May 17, 2005, Defendant called Gallant and at Defendant's request, on May 17, 2005, Gallant returned to CFCF for a second interview. (Hrg. Tr. at 24.) Gallant verbally advised Defendant of his Miranda rights on this occasion but did not read or have Defendant execute a new Advice of Rights Form. (*Id.* at 25.) During this interview, Defendant wanted to talk to Gallant about various issues concerning drug trafficking. (*Id.* at 25.) Gallant made no threats or promises to Defendant in exchange for his cooperation. Defendant was neither nervous nor reluctant to speak with Gallant. Gallant did not talk to Defendant about Defendant's family on this occasion.² (*Id.* at 25-27.) Gallant memorialized this interview in another Form 302. (Gov't Ex. 4.)

On June 6, 2005, a federal warrant was issued for Defendant's arrest, and Gallant transported Defendant from CFCF to the FBI offices. (Hrg. Tr. at 28.) At the FBI offices, Gallant read an Advice of Rights Form to Defendant and then had Defendant execute the Form.³ (*Id.* at 28-29; Gov't Ex. 2.) Then, in the presence of Special Agent John Loudon, Gallant interviewed Defendant about Defendant's drug trafficking activities and specifically about

² Sometime in July or August 2005, Defendant advised Gallant that Defendant's mother had received threats. As a result of receiving this information, on several occasions Gallant went to the mother's home and spoke with Defendant's mother. (Hrg. Tr. at 71-72.)

³ Defendant testified that he understood that by signing the Advice of Rights Forms, he was waiving his right to have an attorney present and his right to remain silent. (*Id.* at 103-06.)

Defendant's relationship with other suppliers. (Hrg. Tr. at 30.) Defendant wanted to talk to Gallant and made no attempt to end the interview. (*Id.* at 29.) Gallant made no promises to Defendant nor did he make any threats to Defendant. (*Id.* at 30-31.) Defendant did not discuss his family with Gallant during the interview. (*Id.* at 31.) Gallant again summarized the interview in a Form 302. (Gov't Ex. 4.)

At no time during any of these interviews did Defendant express any reluctance to talk to the Government, nor did he express a concern for his safety or the safety of his family members. (Hrg. Tr. at 33-34.) Defendant was lucid during these interviews and had no difficulty communicating. Each of the interviews lasted approximately thirty to forty-five minutes. (*Id.* at 60, 63-64, 69.)

II. DISCUSSION

Defendant has moved to suppress all statements obtained from Defendant by the Government subsequent to Defendant's May 10, 2005 arrest. (Doc. No. 27 ¶¶ 1-9.) Defendant argues that his statements to Gallant were involuntary and were made in violation of his Fifth and Fourteenth Amendment rights. (*Id.* at 3.) The Government responds that Defendant's statements to Gallant were voluntarily and intelligently given, that Defendant was properly advised of his constitutional rights, and that no threats or promises were made to Defendant.

"Statements made to a law enforcement officer are inadmissible into evidence if the statements are 'involuntary.'" *United States v. Jacobs*, 431 F.3d 99, 108 (3d Cir. 2005) (citing *Schneckloth v. Bustamonte*, 412 U.S. 218, 225-26 (1973)). To determine whether a statement is voluntarily given, a court must view the totality of the circumstances and determine if the statement is "the product of an essentially free and unconstrained choice by its maker." *See*

Schneckloth, 412 U.S. at 225; *see also Jacobs*, 431 F.3d 99 at 108; *United States v. Swint*, 15 F.3d 286, 289 (3d Cir. 1994). “If an individual’s will is overborne or that person’s capacity for self-determination is critically impaired, her or his statements are involuntary.” *Jacobs*, 431 F.3d at 108 (citing *Schneckloth*, 412 U.S. at 225-26). The Government must establish by a preponderance of the evidence that a challenged statement was voluntary. *Id.* at 108-09 (citing *Lego v. Twomey*, 404 U.S. 477, 489 (1972)).

“A suspect’s background and experience, including prior dealings with the criminal justice system, should be taken into account in the voluntariness inquiry.” *Id.* at 108. Other factors that are taken into account include: the youth of the accused, his lack of education or his low intelligence, the lack of any advice to the accused of his constitutional rights, the length of detention, the repeated and prolonged nature of the questioning, and the use of physical punishment such as the deprivation of food or sleep. *Schneckloth*, 412 U.S. at 226. When the court has determined the factual circumstances surrounding a confession or statement, it then “assesse[s] the psychological impact on the accused, and evaluate[s] the legal significance of how the accused reacted.” *Id.* “A necessary predicate to a finding of involuntariness is coercive police activity.” *Jacobs*, 431 F.3d at 108. There must be some causal connection between the police conduct and the confession. *Id.*

A promise made by a law enforcement official to an accused may result in an involuntary statement. However, “[t]he inquiry is really whether, under the totality of the circumstances, the statement induced the confession, not whether it was, on its face, a promise.” *Miller v. Fenton*, 796 F.2d 598, 609 n.10 (3d Cir. 1986). Thus, “promises do not trigger an analysis different from the totality of the circumstances test.” *Id.* “[T]he real issue is not whether a promise was made,

but whether there was a causal connection between [the agent's] assurance and [the defendant's] statement.” *United States v. Walton*, 10 F.3d 1024, 1029 (3d Cir. 1993). “Causation in this sense . . . requires an inquiry into ‘whether [the agent's] statements were so manipulative or coercive that they deprived [the defendant] of his ability to make an unconstrained, autonomous decision to confess.’” *Id.* at 1029-30 (quoting *Miller* 796 F.2d at 605.)

Defendant is a forty-eight-year-old man. (Hrg. Tr. at 84.) He is very familiar with the criminal justice system, having been arrested twenty-two times and convicted numerous times in state court. His prior convictions include a conviction for knowing possession of a controlled substance. (Gov't's Resp. at Attach. 2.) At the time of his arrest, Gallant told Defendant that it might be in Defendant's interest to cooperate with the federal drug trafficking investigation. Defendant agrees that Gallant told him that he was free not to cooperate with the investigation if he did not want to and to go to trial instead. (Hrg. Tr. at 112.) Before each of the three interviews conducted by Gallant, Defendant was advised of his constitutional rights. Defendant agrees that Gallant read the Advice of Rights Form to him and that he signed the Form on May 12, 2005 and June 6, 2005. Defendant testified that he understood that he was waiving his rights by signing the Form. Each of the three interviews lasted approximately thirty to forty-five minutes. There is no indication in the record that Defendant was deprived of food or sleep, or that the federal investigators ever threatened Defendant. Perhaps most significantly, Defendant initiated the first two interviews with Gallant. Indeed, Defendant appeared willing to talk with Gallant, was lucid, and did not attempt to end any of the interviews.

Defendant contends that his statements to Gallant were not voluntary because they were the result of promises made by Gallant. Defendant testified that he was concerned about his wife

and his uncle being charged and that Gallant promised him that they would not be charged.

Defendant further testified that he was concerned about the outstanding state charges against him but that Gallant promised him that the Federal Government could make these cases “go away.” (*Id.* at 94-97.) We reject Defendant’s testimony in this regard. Gallant’s testimony that he did not make any promises to Defendant regarding Defendant’s wife and uncle and the state charges is entirely credible.

Based upon the totality of the circumstances, we are compelled to conclude that Defendant made his statements to the investigators knowingly and voluntarily. *Cf. United States v. Conley*, 859 F. Supp. 830, 837-40 (W.D. Pa. 1994) (defendant’s statements were involuntary and the product of coercion and could not be used in prosecution of defendant where federal agent promised defendant that his statements were off the record and that defendant was not a target of agent’s investigation). Accordingly, Defendant’s Motion will be denied.

An appropriate Order follows.

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ORDER

AND NOW, this 12th day of May 2006, upon consideration of Defendant's Motion To Suppress (Doc. No. 27), and all papers filed in support thereof and in opposition thereto, and after a hearing in open court, it is ORDERED that the Motion is DENIED.

IT IS SO ORDERED.

BY THE COURT:

S/ R. Barclay Surrick
U.S. District Court Judge